

## AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Fig. 1. This sheet, which includes **Fig. 1**, replaces the original sheet including **Fig. 1**.

Attachment: Replacement Sheet

## **REMARKS**

### **Status of the Claims**

Claims 5-9 are pending in this application.

Claims 5-7 are rejected.

Claims 8 and 9 are objected to.

Claims 6-7 have been canceled, without prejudice.

Claims 8-9 have been amended. Support for these amendments can be found throughout the specification, claims, and drawings, as originally filed.

### **Specification Objections**

The specification has been objected to because of several informalities. The Office Action indicated that the Figure is not labeled as "Figure 1," and a brief description of drawings is missing from the specification.

Applicant has included with this response an updated revision of the drawing labeled as "Figure 1." The specification has also been amended to include a description of the drawing. Applicant believes that this objection has been overcome, and that no new matter has been added.

The Office Action also indicated that the specification was objected to because it does not provide antecedent basis for claim 8 and 9. More specifically, the Office Action indicated that the specification does not state the spacing distance (0.2mm to 0.5mm) between the anvil and the flange.

The Applicant has amended the specification at page 7, line 23 to include "Prior to that, with the fitment 22 fully received over the head portion 14 and the horn 18 not yet applied to the carton wall, there is a spacing of from 0.2mm. to 0.5mm. between that

annular surface portion of the arm 2 and the annular, radially outer portion of the flange 28.” Antecedent basis for this amendment is shown in the drawing as originally filed. Applicant believes that claims 8 and 9 now have proper antecedent basis. Applicant believes that this objection has been overcome, and that no new matter has been added.

### **Drawing Objections**

The drawings have been objected to because the Figure is not labeled as “Figure 1.” Applicant has submitted a new drawing labeled as “Figure 1.” Applicant believes that this objection has been overcome, and that no new matter has been added.

### **Rejection of Claim 5 Under 35 U.S.C. § 112**

Claim 5 stands rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, the Office Action indicated that an anvil is between the annular surface portion end where the horn is pressed against the wall of the container and the flange of the fitment. The Applicant respectfully traverses the 35 U.S.C. § 112 rejection of claim 5.

Claim 5 has been amended to include the elements of “an anvil between an annular surface portion of which anvil and said one end of the horn are vibrantly pressed a wall of said container and a flange of said fitment to weld said wall and said flange to each other.” This further clarifies that the annular surface portion is on the anvil. The Applicant notes that the passage to which the Office Action refers reads “an anvil between an annular surface portion of which and said one end of the horn are vibrantly pressed a wall of said container and a flange of said fitment to weld and said

wall and said flange to each other.” This phrase can be looked upon as an ordinary English description of “an A between a B of which and said C are vibrantly pressed a D of said E and an F of said G to weld said D and said F to each other.”

It is clearly disclosed in the drawing, and can be seen from the attached copy of the drawing illustrating the items A to G, and of course, it is clearly disclosed in the description with reference to the drawing. It will be understood that the annular surface portion is of the anvil itself, so that the anvil cannot be between that portion and the flange of the fitment, as alleged in the Office Action. Therefore, the Applicant respectfully requests withdrawal of the rejection.

#### **Rejection of Claims 6-7 Under 35 U.S.C. § 103**

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,759,319 in view of U.S. Patent No. 6,085,489. Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,759,319 in view of U.S. Patent No. 6,085,489, and further in view of U.S. Patent No. 5,653,832.

Applicant notes that claims 6 and 7 have been cancelled. Applicant further notes the subject matter of claims 6 and 7 has been amended into claim 8, and that the subject matter of claim 6 has also been amended into claim 9. Claims 8 and 9 have been objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Because claims 6 and 7 have been cancelled, and claims 6 and 7 have been amended into claim 8, and claim 6 has been amended into claim 9, applicant respectfully requests the allowance of claims 8 and 9.

### **Allowable Matter**

The Office Action indicated that claim 5 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112. Claim 5 has been amended to overcome the rejection under 35 U.S.C. § 112. It is now believed that claim 5 is in condition for allowance, and Applicant respectfully requests allowance thereof.

The Office Action also indicated that claims 8 and 9 have been objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 8 and 9 have been amended to include the subject matter of their respective base claims and intervening claims. It is now believed that claims 8 and 9 are in condition for allowance, and Applicant respectfully requests allowance thereof.

### **CONCLUSION**

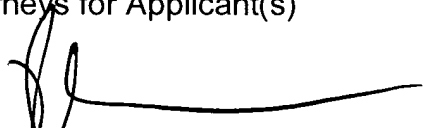
It is respectfully submitted that in view of the above amendments and remarks the claims 5, and 8-9 are in condition for allowance. Therefore, Applicant submits that the pending claims are properly allowable, which allowance is respectfully requested.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 364-4300 if any unresolved matters remain.

Respectfully submitted,

WARN PARTNERS, P.C.  
Attorneys for Applicant(s)

Dated: Sept 16, 2008

By:   
Philip R. Warn  
Reg. No. 32775

P.O. Box 70098  
Rochester Hills, MI 48307  
(248) 364-4300

PRW:RPB:slm